

State of California
BOARD OF EQUALIZATION
DIESEL FUEL TAX REGULATIONS

Regulation 1420. SUPPLIER.

Reference: Revenue and Taxation Code Sections 60003, 60004, 60006, 60007, 60008, 60009, 60010, 60011, 60012, 60013, 60015, 60021, 60022, 60023, 60029, 60030, 60031, 60032, 60033, 60035, 60050, 60051, 60052, 60053, 60054, 60055, 60059, 60060, 60061, 60062, 60131, 60201, and 60203.

(a) RETURNS. All suppliers must prepare and file returns with the Board to report tax on diesel fuel. Returns are due at the end of the month following the calendar month in which the diesel fuel was removed, entered, or sold, unless the Board requires that a return be filed for a different period. A supplier acting in more than one capacity as a supplier (for example, as a blender and enterer, or throughputter and position holder) may be required to file more than one return. A terminal operator who also is a position holder in diesel fuel within the terminal or is jointly and severally liable for the tax is required to file both the terminal operator return and the supplier return. A throughputter who also is a position holder in diesel fuel within a terminal or sells/transfers diesel fuel within the bulk transfer/terminal system to a person who is not a licensed supplier is required to file both the throughputter return and the supplier return when the fuel is removed from the terminal rack or sold/transferred within the bulk transfer system.

(b) IMPOSITION OF TAX. Tax applies to each supplier as follows:

(1) **BLENDER.** A blender is required to pay the tax on the removal or sale of diesel fuel blended outside the bulk transfer/terminal system. The number of gallons of blended diesel fuel subject to the tax is the difference between the total number of gallons of blended diesel fuel removed or sold and the number of gallons of tax-paid diesel fuel used to produce the blended fuel.

(2) **ENTERER.** An enterer is required to pay the tax when the enterer imports diesel fuel into the state by means outside of the bulk transfer/terminal system. (Diesel fuel which enters the state by means of a vessel is considered to be within the bulk transfer/terminal system.) If there is no importer of record under federal customs law when the diesel fuel enters the state, the owner of the diesel fuel at the time it is brought into the state is the enterer and is liable for the tax.

(3) **POSITION HOLDER.** A position holder that holds an inventory position in the diesel fuel as reflected on the records of the terminal operator is required to pay the tax when the diesel fuel is removed from the terminal rack.

(4) **REFINER.**

(A) A refiner is required to pay the tax when the diesel fuel is removed at the refinery rack.

(B) A refiner is also required to pay the tax when the removal of diesel fuel is by bulk transfer (e.g., transfer by pipeline or vessel) and the refiner or the owner of the diesel fuel immediately before the removal is not a licensed supplier.

(5) **TERMINAL OPERATOR.** A terminal operator is jointly and severally liable for and may be required to pay the tax when the diesel fuel is removed at the rack if both subsections (A) and (B) below apply, or if subsection (C) applies:

(A) The position holder with respect to the diesel fuel is a person other than the terminal operator and is not a licensed supplier.

(B) The terminal operator is not a licensed supplier and either (i) does not have an unexpired notification certificate from the position holder as required by the Internal Revenue Service or (ii) has an unexpired notification certificate from the position holder, but has reason to believe or knows that any information in the certificate is false.

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(C) The terminal operator provides any person with a bill of lading, shipping paper, or similar document which falsely indicates that the undyed or unmarked diesel fuel which is removed from the terminal is dyed or marked in accordance with the United States Environmental Protection Agency or the Internal Revenue Service requirements.

(6) THROUGHPUTTER. A throughputter is required to pay the tax when the throughputter transfers or sells diesel fuel within the bulk transfer/terminal system to a person who is not a licensed supplier.

History: Adopted December 9, 1998, effective March 31, 1999.